

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PALM BAY INTERNATIONAL, INC.

Plaintiff/Counter-  
Defendant,

v.

Cons. Case Nos. CV 09 599  
and CV 09 601 (ADS) (ETB)

MARCHESI DI BAROLO S.P.A.,

Defendant/Counter-  
Plaintiff.

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DAVID S. TAUB and MARC TAUB, as .,  
Successor to MARTIN G. TAUB, deceased,

Plaintiffs/Counter-  
Defendants,

v.

MARCHESI DI BAROLO S.P.A.,

Defendant/Counter-  
Plaintiff.

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**DECLARATION OF  
RACHAEL G. PONTIKES  
IN SUPPORT OF  
DEFENDANT'S MOTION TO  
EXCLUDE THE TESTIMONY  
OF DENNIS NEIER AS TO  
LOST PROFITS**

Pursuant to 28 U.S.C. § 1746, RACHAEL G. PONTIKES hereby declares under penalty of perjury, that the following is true and correct:

1. I am an attorney admitted *pro hac vice* with the law firm of Duane Morris LLP, attorneys for defendant Marchesi di Barolo ("Marchesi"), in the above-captioned actions. I submit this Declaration in support of Marchesi's Motion to Exclude the Testimony of Dennis Neier as to Lost Profits.

2. The purpose of this Declaration is to put before the Court the documents which establish that Marchesi's motion to preclude should be granted.

3. A true and correct copy of the October 13, 2009 Expert Report of Dennis Neier is annexed hereto as Exhibit 1.

4. A true and correct copy of relevant portions of the April 19, 2010 deposition transcript of Dennis Neier is annexed hereto as Exhibit 2.

5. A true and correct copy of relevant portions of the October 1, 2009 deposition transcript of Doug Jackson is annexed hereto as Exhibit 3.

Dated: Chicago, Illinois  
June 30, 2010

/s/ Rachael G. Pontikes  
RACHAEL G. PONTIKES